

**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH**

**CERTIFICATE OF NEED (CON) REVIEW STANDARDS**  
**FOR PSYCHIATRIC BEDS AND SERVICES**

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws).

**Section 1. Applicability**

Sec. 1. (1) These standards are requirements for the approval and delivery of services for all projects approved and Certificates of Need issued under Part 222 of the Code which involve psychiatric beds and services.

(2) A psychiatric hospital or unit is a covered health facility for purposes of Part 222 of the Code.

(3) An increase in licensed psychiatric beds or the physical relocation from a licensed site to another geographic location is a change in bed capacity for purposes of Part 222 of the Code.

(4) The initiation or expansion of a specialized psychiatric program for children/adolescents is a covered clinical service for purposes of Part 222 of the Code.

(5) The Department shall use sections 3, 4, 5, 6, 7, 8, and 9, as applicable, in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws.

(6) The Department shall use sections 11 and 12, as applicable, in applying Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

**Section 2. Definitions**

Sec. 2. (1) For purposes of these standards:

(a) "Adult" means any individual aged 18 years or older.

(b) "Acquisition of a psychiatric hospital or unit" means the issuance of a new license as the result of the acquisition (including purchase, lease, donation, or other comparable arrangement) of an existing licensed psychiatric hospital or unit and which does not involve a change in the number of licensed psychiatric beds or beds designated for a child/adolescent specialized psychiatric program at that health facility.

(c) "Base year" means 1992 or the most recent year for which verifiable data are collected by the Department and are available separately for the population age cohorts of 0 to 17 and 18 and older.

(d) "Child/adolescent" means any individual less than 18 years of age.

(e) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(f) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(g) "Community mental health board" or "board" or "CMH" means the board of a county(s) community mental health board as defined in Section 200(b) of Act 258 of the Public Acts of 1974, as amended, being Section 330.1200(b) of the Michigan Compiled Laws.

(h) "Comparative group" means the applications which have been grouped for the same type of project in the same planning area and are being reviewed comparatively in accordance with the CON rules.

(i) "Converted beds" means existing licensed psychiatric beds reallocated from one program category to child/adolescent.

(j) "Department" means the Michigan Department of Community Health (MDCH).

(k) "Department inventory of beds" means the current list maintained by the Department which

includes:

- (i) licensed adult and child/adolescent psychiatric beds; and
- (ii) adult and child/adolescent psychiatric beds approved by a valid CON issued under either former Part 221 or Part 222 of the Code which are not yet licensed.

A separate inventory will be maintained for child/adolescent beds and adult beds.

- (l) "Existing adult inpatient psychiatric beds" or "existing adult beds" means:

- (i) all adult beds in psychiatric hospitals or units licensed by the Department pursuant to the Mental Health Code;
- (ii) all adult beds approved by a valid CON issued under either former Part 221 or Part 222 of the Code which are not yet licensed;
- (iii) proposed adult beds under appeal from a final Department decision made under former Part 221 or Part 222, or pending a hearing from a proposed decision issued under Part 222 of the Code; and
- (iv) proposed adult beds that are part of a completed application under Part 222 of the Code (other than the application or applications in the comparative group under review) which are pending final Department decision.

- (m) "Existing child/adolescent inpatient psychiatric beds" or "existing child/adolescent beds" means:

- (i) all child/adolescent beds in psychiatric hospitals or units licensed by the Department pursuant to the Mental Health Code;
- (ii) all child/adolescent beds approved by a valid CON issued under either former Part 221 or Part 222 of the Code which are not yet licensed;
- (iii) proposed child/adolescent beds under appeal from a final Department decision made under former Part 221 or Part 222, or pending a hearing from a proposed decision issued under Part 222 of the Code; and
- (iv) proposed child/adolescent beds that are part of a completed application under Part 222 of the Code (other than the application or applications in the comparative group under review) which are pending final Department decision.

(n) "Expansion of a child/adolescent specialized psychiatric program" means an increase in the number of beds designated for children/adolescents whether through an increase in the total number of licensed psychiatric beds or the conversion of existing licensed beds.

(o) "Initiation of a specialized psychiatric program for children/adolescents" means the establishment of an inpatient psychiatric unit with a specified number of beds designated for children/adolescents at a site at which specialized psychiatric program services are not currently provided.

(p) "Involuntary commitment status" means a hospital admission effected pursuant to the provisions of MCLA 330.1423 to MCLA 330.1444.

- (q) "Licensed site" means either:

- (i) in the case of a single site hospital, the location of the facility authorized by license and listed on that licensee's certificate of licensure; or
- (ii) in the case of a hospital with multiple sites, the location of each separate and distinct inpatient unit of the health facility as authorized by license and listed on that licensee's certificate of licensure.

(r) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.

(s) "Mental Health Code" means Act 258 of the Public Acts of 1974, as amended, being Sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

(t) "Mental health professional" means a person who is trained and experienced in the areas of mental illness or mental retardation and who is any 1 of the following:

(i) a physician who is licensed to practice allopathic medicine or osteopathic medicine in Michigan and who has had substantial experience with mentally ill, mentally retarded, or developmentally disabled clients for 1 year immediately preceding his or her involvement with a client under administrative rules promulgated pursuant to the Mental Health Code;

- (ii) a psychologist;
- (iii) a certified social worker;
- (iv) a registered nurse;

(v) a professional person, other than those defined in the administrative rules promulgated pursuant to the Mental Health Code, who is designated by the Director of the Department or a director of a facility operated by the Department in written policies and procedures. This mental health professional shall have a degree in his or her profession and shall be recognized by his or her respective professional association as being trained and experienced in the field of mental health. The term does not include non-clinical staff, such as clerical, fiscal or administrative personnel.

(u) "Mental health service" means a service that is directed to the areas of mental illness, mental retardation, developmental disability, other organic brain or other neurological impairment or disease, alcoholism, or substance abuse pursuant to Section 208 of the Mental Health Code.

(v) "Non-renewal or revocation of license" means the Department did not renew or revoked the psychiatric hospital's or unit's license based on the hospital's or unit's failure to comply with state licensing standards.

(w) "Non-renewal or termination of certification" means the psychiatric hospital's or unit's Medicare and/or Medicaid certification was terminated or not renewed based on the hospital's or unit's failure to comply with Medicare and/or Medicaid participation requirements.

(x) "Offer" means to provide inpatient psychiatric services to patients.

(y) "Partial hospitalization psychiatric program" or "partial hospitalization" or "program" means a non-residential mental health treatment program which:

(i) is operated and clients are regularly scheduled to be treated for a minimum of six consecutive hours during any 24 hour period for a minimum of 5 days per week;

(ii) includes psychiatric, psychological, social, occupational and therapeutic recreational elements all of which are under psychiatric supervision; and

(iii) provides services to clients who are diagnosed mentally or emotionally ill and who are at risk of psychiatric inpatient hospitalization, or who might otherwise remain hospitalized on an inpatient basis in the absence of such a program, due to: subacute homicidal or suicidal behavior; acute psychosis; acute phases of major affective disorders; or the need for supervised diagnostic tests, observations, or supervised administration of medication when extended observation is necessary.

(z) "Physician" means an individual licensed under Article 15 of the Code to engage in the practice of medicine or osteopathic medicine and surgery.

(aa) "Planning area" means either:

(i) for child/adolescent beds and services, the geographic boundaries of the groups of counties shown in Section 14(1); or

(ii) for adult beds and services, the county or groups of counties served by each CMH as shown in Section 14(2).

(bb) "Planning year" means 1990 or a year in the future, at least 3 years but no more than 7 years, established by the CON Commission for which inpatient psychiatric bed needs are developed. The planning year shall be a year for which official population projections from the Department of Management and Budget are available.

(cc) "Psychiatric hospital" means a health facility licensed under the Mental Health Code as defined in R330.1201.

(dd) "Psychiatrist" means a physician who devotes a substantial portion of his/her time to the practice of psychiatry and who has practiced psychiatry for 1 year immediately preceding certification by him/her of any individual under the Mental Health Code, as defined by R330.1001(1)(l).

(ee) "Psychiatric unit" means a unit licensed under the Mental Health Code as defined in R330.1201.

(ff) "Psychologist" means, except in Part 4 of the administrative rules for the Michigan Department of Mental Health, which is subject to the definition in Section 400 of the Mental Health Code, a person who is granted a full or limited license to practice psychology under Part 182 of Act No. 368 of the Public Acts of 1978, as amended, being Section 333.18201 et seq. of the Michigan Compiled Laws.

(gg) "Public patient" means an individual approved for mental health services by a CMH or an individual who is admitted as a patient under Section 423, 429, or 438 of the Mental Health Code, Act No. 258 of the Public Acts of 1974, being Sections 330.1423, 330.1429, and 330.1438 of the Michigan Compiled Laws.

(hh) "Qualifying project" means each application in a comparative group which has been reviewed individually and has been determined by the Department to have satisfied all of the requirements of Section 22225 of the Code, being Section 333.22225 of the Michigan Compiled Laws, and all other applicable

requirements for approval in the Code and these standards.

(ii) "Registered professional nurse" or "R.N." means an individual licensed under Article 15 of the Code, being Sections 333.17201, et seq. of the Michigan Compiled Laws, to engage in the practice of nursing which scope of practice includes teaching, direction, and supervision of less skilled personnel in the performance of delegated nursing activities.

(jj) "Replacement beds" means beds in a psychiatric hospital or unit which meet all of the following conditions:

(i) an equal or greater number of beds are currently licensed to the applicant at the licensed site at which the proposed replacement beds are currently licensed;

(ii) the beds are proposed for replacement in new physical plant space being developed in new construction or in newly acquired space (purchase, lease, donation, etc.); and

(iii) the beds to be replaced will be located in the replacement zone.

(kk) "Replacement zone" means a proposed licensed site which is:

(i) in the same planning area as the existing licensed site; and

(ii) on the same site, on a contiguous site, or on a site within 2 miles of the existing licensed site if the existing licensed site is located in a county with a population of 200,000 or more, or on a site within 5 miles of the existing licensed site if the existing licensed site is located in a county with a population of less than 200,000.

(ll) "Specialized psychiatric program" means an inpatient program for children/adolescents. A specialized psychiatric program will have one or more of the following:

(i) the program will be represented as providing specialized services to child/adolescent patients;

(ii) the program has admission criteria and treatment protocols specific to children/adolescents;

(iii) employees of the specialized psychiatric program will be provided with orientation/in-service training directed at children/adolescents;

(iv) some or all of the job descriptions that staff the unit require education/experience specific to children/adolescents; or

(v) the facility will seek a special rate of reimbursement from third party payers for the specialized psychiatric program.

(mm) "Social worker" or "certified social worker" or "social work technician" means a person who is so certified pursuant to Act 352 of the Public Acts of 1972, as amended, being Section 338.1751 et seq. of the Michigan Compiled Laws.

(2) The terms defined in the Code have the same meanings when used in these standards.

### **Section 3. Determination of needed inpatient psychiatric bed supply**

Sec. 3. (1) Until changed by the Commission in accordance with Section 4(3) and Section 5, the use rate for the base year for the population age 0-17 is set forth in Appendix D.

(2) The number of child/adolescent inpatient psychiatric beds needed in a planning area shall be determined by the following formula:

(a) Determine the population for the planning year for each separate planning area for the population age 0-17.

(b) Multiply the population by the use rate established in Appendix D. The resultant figure is the total patient days.

(c) Divide the total patient days obtained in subsection (b) by 365 (or 366 for leap years) to obtain the projected average daily census (ADC).

(d) Divide the ADC by 0.75.

(e) The number determined in subsection (d) represents the number of child/adolescent inpatient psychiatric beds needed in a planning area for the planning year.

(3) The number of needed adult inpatient psychiatric beds shall be determined by multiplying the population aged 18 years and older for the planning year for each planning area by the either:

(a) The ratio of adult beds per 10,000 adult population set forth in Appendix C; or

(b) The statewide ratio of adult beds per 10,000 adult population set forth in Appendix C, whichever is lower; and dividing the result by 10,000. If the ratio set forth in Appendix C for a specific planning area is "0", the statewide ratio of adult beds per 10,000 adult population shall be used to determine the number of needed adult inpatient psychiatric beds.

#### **Section 4. Bed Need for Inpatient Psychiatric Beds**

Sec. 4. (1) For purposes of these standards, until otherwise changed by the Commission, the bed need numbers determined pursuant to Section 3, incorporated as part of these standards as Appendices A and B, as applicable, shall apply to projects subject to review under these standards, except where a specific CON review standard states otherwise.

(2) The Commission may direct the Department to apply the bed need methodologies in Section 3.

(3) The Commission shall designate the planning year, and, for child/adolescent beds, the base year, which shall be utilized in applying the bed need methodologies pursuant to subsection (2).

(4) When directed by the Commission to apply the methodologies pursuant to subsection (2), the effective date of the bed need numbers shall be established by the Commission.

(5) New bed need numbers established by subsections (2) and (3) shall supercede the bed need numbers shown in Appendices A and B and shall be included as amended appendices to these standards.

(6) Modifications made by the Commission pursuant to this section shall not require standard advisory committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

#### **Section 5. Modification of the child/adolescent use rate by changing the base year**

Sec. 5. (1) The Commission may modify the base year based on data obtained from the Department and presented to the Commission. The Department shall calculate the use rate for the population age 0-17 and biennially present the revised use rate based on the most recent base year information available biennially to the CON Commission.

(2) The Commission shall establish the effective date of the modifications made pursuant to subsection (1).

(3) Modifications made by the Commission pursuant to subsection (1) shall not require standard advisory committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

#### **Section 6. Requirements for approval for all applicants**

Sec. 6. (1)(a) An applicant proposing either:

- (i) an increase in the number of licensed psychiatric beds;
- (ii) the initiation or expansion of a child/adolescent specialized psychiatric program; or
- (iii) the replacement of licensed psychiatric beds,

shall demonstrate that the Department, pursuant to Section 134 of the Mental Health Code being Section 330.1134 of the Michigan Compiled Laws, recommends approval of the proposed project.

(b) The Department's recommendation shall be in writing and based on all of the following, as applicable:

- (i) the applicant's compliance with all applicable CON review standards;
- (ii) the recommendation of the local CON review agency, if any, if the recommendation is received in accordance with the time lines set forth in the CON administrative rules; and

(iii) the written recommendation from the CMH(s) that serves the planning area in which the proposed beds or services will be located, or a majority of the boards if more than one CMH serves the planning area in which the proposed beds or services will be located. If the applicant is a CMH, the Department's recommendation shall not be based on that CMH's recommendation.

(2) An applicant proposing either an increase in the number of licensed psychiatric beds or the initiation or expansion of a specialized psychiatric program for children/adolescents shall demonstrate each of the following:

(a) The number of beds proposed in the CON application to be allocated for use by public patients shall not be less than 50 percent (50%) of the beds proposed in the CON application. Applications proposed in direct response to a Department plan pursuant to subsection (e) or (g) shall allocate not less than 80 percent (80%) of the beds proposed in the CON application.

(b) Previously made commitments, if any, to the Department or CMH(s) to serve public patients have been fulfilled.

(c) The applicant has, at the time the application is deemed submitted, a signed letter of agreement, with the Department or the CMH(s) serving the planning area in which the proposed beds or services will be located, to enter into a contract with the CMH(s) or the Department to meet the needs of the public patient when the proposed beds or services become operational. At a minimum, the letter of agreement shall specify the number of beds to be allocated to the public patient and the applicant's intention to serve patients with an involuntary commitment status.

(d) In the case of an applicant that is proposing an increase in the number of licensed psychiatric beds at an existing facility, the average occupancy rate for all existing beds, as applicable, in all psychiatric hospitals or units in the planning area in which the proposed beds or services will be located, was at least 85 percent (85%) for adult beds and 75% for child/adolescent beds, for the 12 month period immediately preceding the date the application was deemed submitted based on the Department's data.

(e) Subsection (d) shall not apply if the Director of the Department has certified in writing that the proposed project is a direct response to a Department plan for reducing the use of public institutions for acute mental health care through the closure of a state-owned psychiatric hospital.

(f) If approved, the number of beds proposed in the CON application will not result in the number of existing adult or child/adolescent psychiatric beds, as applicable, in the planning area exceeding the needed bed supply set forth in Appendix A or B, as applicable. However, an applicant may request and be approved for up to a maximum of 20 beds if, when the total number of "existing adult beds" or existing child/adolescent beds" is subtracted from the bed need for the planning area set forth in Appendix B, the difference is equal to or more than 1 or less than 20.

(g) An applicant shall not be required to be in compliance with subsection (f) if the applicant demonstrates that the application meets both of the following:

(i) the Director of the Department determines that an exception to subsection (f) should be made and certifies in writing the proposed project is a direct response to a Department plan for reducing the use of public institutions for acute mental health care through the closure of a state-owned psychiatric hospital; and

(ii) the proposed beds will be located in the area currently served by the public institution that will be closed, as determined by the Department.

(3) The minimum number of beds in a psychiatric unit in a general hospital shall be at least 20 beds. If a psychiatric unit has or proposes to operate both adult and child/adolescent beds, then each unit shall have a minimum of 20 beds. The Department may approve an application for a unit of less than 20 beds, if the applicant demonstrates, to the satisfaction of the Department, that travel time to existing units would significantly impair access to care.

(4) An applicant shall provide verification of Medicaid participation at the time the application is submitted to the Department. An applicant that is a new provider not currently enrolled in Medicaid shall provide a signed affidavit stating that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of services if a CON is approved. If the required documentation is not submitted with the application on the designated application date, the application will be deemed filed on the

first applicable designated application date after all required documentation is received by the Department.

#### **Section 7. Requirements for approval for applicants requesting a specialized psychiatric program for children/adolescents**

Sec. 7. An applicant proposing to use inpatient psychiatric beds (including new, additional, replacement or converted beds) for a specialized psychiatric program for children/adolescents shall demonstrate that it meets all of the following:

- (a) The proposed project meets the requirements of Section 6 of these standards, as applicable.
- (b) The proposed specialized psychiatric program for children/adolescents shall be physically distinct from other inpatient units and shall provide a minimum of 40 gross square feet per child/adolescent bed.
- (c) The proposed specialized psychiatric program for children/adolescents shall provide a dedicated group therapy area consisting of either:
  - (i) a room of at least 225 gross square feet; or
  - (ii) a minimum of 8 gross square feet per child/adolescent bed.
- (d) The proposed specialized psychiatric program for children/adolescents shall comply with Rules 330.1239 and 330.1243 of the Department of Mental Health administrative rules.
- (e) The proposed specialized psychiatric program for children/adolescents shall provide the following dedicated educational/classroom space:
  - (i) a room of at least 325 gross square feet, or the minimum square footage per licensed child/adolescent bed as required per student by the home school district's standards for special education classrooms, whichever is less; and
  - (ii) one dedicated educational/vocational training area for every 16 licensed child/adolescent beds.

#### **Section 8. Requirements for approval – replacement beds**

Sec. 8. An applicant proposing replacement beds shall not be required to be in compliance with the needed bed supply set forth in Appendix A or B, as applicable, if the applicant demonstrates all of the following:

- (a) The project proposes to replace an equal or lesser number of beds currently licensed to the applicant at the licensed site at which the proposed replacement beds are currently located.
- (b) The proposed licensed site is in the replacement zone.
- (c) The applicant meets all other applicable CON review standards and agrees and assures to comply with all applicable project delivery requirements.
- (d) Not less than 50 percent (50%) of the beds proposed to be replaced shall be allocated for use by public patients.
- (e) Previously made commitments, if any, to the Department or CMH(s) to serve public patients have been fulfilled.
- (f) The applicant has, at the time the application is deemed submitted, a signed letter of agreement, with the Department or the CMH(s) that serve the planning area in which the beds are located, to enter into a contract with the CMH(s) or the Department to meet the needs of the public patient when the proposed replacement beds are licensed for use. At a minimum, the letter of agreement shall specify the number of beds to be allocated to the public patient and the applicant's intention to serve patients with an involuntary commitment status.

#### **Section 9. Requirements for approval – acquisition of a psychiatric hospital or unit**

Sec. 9. An applicant proposing to acquire a psychiatric hospital or unit shall not be required to be in compliance with the needed bed supply set forth in Appendix A or B, as applicable, for the planning area in which the psychiatric hospital or unit subject to the proposed acquisition is located, if the applicant demonstrates that all of the following are met:

- (a) The acquisition will not result in a change in the number of licensed beds or beds designated for a child/adolescent specialized psychiatric program.
- (b) The licensed site does not change as a result of the acquisition.

- (c) The project is limited solely to the acquisition of a psychiatric hospital or unit.

#### **Section 10. Additional requirements for applications included in comparative review**

Sec. 10. (1) Any application subject to comparative review under Section 22229 of the Code being Section 333.22229 of the Michigan Compiled Laws or these standards shall be grouped and reviewed with other applications in accordance with the CON rules applicable to comparative review.

(2) Each application in a comparative group shall be individually reviewed to determine whether the application has satisfied all the requirements of Section 22225 of the Code being Section 333.22225 of the Michigan Compiled Laws and all other applicable requirements for approval in the Code and these standards. If the Department determines that two or more competing applications satisfy all of the requirements for approval, these projects shall be considered qualifying projects. The Department shall approve those qualifying projects which, when taken together, do not exceed the need, as defined in Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws, and which have the highest number of points when the results of subsection (3) are totaled. If two or more qualifying projects are determined to have an identical number of points, then the Department shall approve those qualifying projects which, when taken together, do not exceed the need, as defined in Section 22225(1), in the order in which the applications were received by the Department, based on the date and time stamp placed on the application for CON form (form T-150-G-1.01 or any subsequent replacement form) by the Division of Health Facility Development (or the administrative unit of the Department responsible for administering the CON program) when the application is filed.

(3)(a) A qualifying project application will be awarded 5 points if, within six months of beginning operation and annually thereafter, 100% of the licensed psychiatric beds (both existing and proposed) at the facility will be Medicaid certified.

(b) A qualifying project will have 4 points deducted if, on or after November 26, 1995, the records maintained by the Department document that the applicant was required to enter into a contract with either the Department or a CMH to serve the public patient and did not do so.

(c) A qualifying project will have 5 points deducted if, on or after November 26, 1995, the records maintained by the Department document that the applicant entered into a contract with MDCH or CMH but never admitted any public patients referred pursuant to that contract.

(d) A qualifying project will have 5 points deducted if, on or after November 26, 1995, the records maintained by the Department document that an applicant agreed to serve patients with an involuntary commitment status but has not admitted any patients referred with an involuntary commitment status.

(e) A qualifying project will be awarded 3 points if the applicant agrees to enter into a unified agreement within 6 months of beginning operation of the beds or specialized psychiatric program. A unified agreement is defined as an agreement among at least the following entities: the Michigan Department of Human Services, the home school district(s), the juvenile division of the probate court and the CMH(s) serving the planning area in which the proposed beds will be located, or a majority of the boards, if more than one CMH serves the planning area in which the proposed beds will be located.

(f) A qualifying project will be awarded 3 points if the applicant presents, in its application, a plan, acceptable to the Department, for the treatment of patients requiring long-term treatment. For purposes of this subsection, long-term treatment is defined to mean an inpatient length of stay in excess of 45 days.

(g) A qualifying project will be awarded 3 points if the applicant agrees that within 6 months of beginning operation of the proposed beds or specialized psychiatric program, the applicant shall offer, either directly or through written agreement with another provider(s), a comprehensive array of services. For purposes of this subsection, a comprehensive array of services is defined to include but not be limited to: a partial hospitalization psychiatric program, outpatient services, and aftercare services.

(h) A qualifying project will have 4 points deducted if the Department has issued, within three years prior to the date on which the CON application was deemed submitted, a temporary permit or provisional license due to a pattern of licensure deficiencies at any psychiatric hospital or unit owned or operated by the applicant in this state.

(i) A qualifying project will have points awarded based on the percentage of the hospital's indigent



volume as set forth in the following table.

<u>Hospital Indigent Volume</u>	<u>Points Awarded</u>
0 - <6%	1
6 - <11%	2
11 - <16%	3
16 - <21%	4
21 - <26%	5
26 - <31%	6
31 - <36%	7
36 - <41%	8
41 - <46%	9
46% +	10

For purposes of this subsection, indigent volume means the ratio of a hospital's indigent charges to its total charges expressed as a percentage as determined by the Department pursuant to Chapter VIII of the Medical Assistance Program manual. The indigent volume data being used for rates in effect at the time the application is deemed submitted will be used by the Department in determining the number of points awarded to each qualifying project.

(j) A qualifying project will have points deducted based on the applicant's record of compliance with applicable safety and operating standards for any psychiatric hospital or unit owned and/or operated by the applicant in this state. Points shall be deducted in accordance with the following schedule if, on or after November 26, 1995, the Department records document any non-renewal or revocation of license for cause or non-renewal or termination of certification for cause of any psychiatric hospital or unit owned or operated by the applicant in this state.

<u>Psychiatric Hospital/Unit Compliance Action</u>	<u>Points Deducted</u>
Non-renewal or revocation of license	4
Non-renewal or termination of:	
Certification - Medicare	4
Certification - Medicaid	4

(4) No points will be awarded to an applicant under individual subsections of Section 10 if information presented in Section 10 is inconsistent with related information provided in other sections of the CON application.

#### **Section 11. Project delivery requirements - terms of approval for all applicants**

Sec. 11. (1) An applicant shall agree that, if approved, the project shall be delivered in compliance with the following terms of CON approval:

- (a) Compliance with these standards.
- (b) Compliance with applicable operating standards in the Mental Health Code or the administrative rules promulgated thereunder.
- (c) Compliance with the following applicable quality assurance standards:

(i) The average occupancy rate for all licensed beds at the psychiatric hospital or unit shall be at least 85 percent (%) for adult beds and 75 percent (%) for child/adolescent beds for the second 12 months of operation, and annually thereafter.

(ii) The proposed licensed psychiatric beds shall be operated in a manner that is appropriate for a population with the ethnic, socioeconomic, and demographic characteristics including the developmental stage of the population to be served.

(iii) The applicant shall establish procedures to care for patients who are disruptive, combative, or suicidal and for those awaiting commitment hearings, and the applicant shall establish a procedure for obtaining physician certification necessary to seek an order for involuntary treatment for those persons that, in the judgment of the professional staff, meet the Mental Health Code criteria for involuntary treatment.

(iv) The applicant shall develop a standard procedure for determining, at the time the patient first presents himself or herself for admission or within 24 hours after admission, whether an alternative to inpatient psychiatric treatment is appropriate.

(v) The inpatient psychiatric hospital or unit shall provide clinical, administrative, and support services that will be at a level sufficient to accommodate patient needs and volume, and will be provided seven days a week to assure continuity of services and the capacity to deal with emergency admissions.

(vi) The applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include, but is not limited to: annual budget and cost information, operating schedules, and demographic, diagnostic, morbidity and mortality information, as well as the volume of care provided to patients from all payor sources. The applicant shall provide the required data on a separate basis for each licensed site; in a format established by the Department; and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records.

(vii) The applicant shall provide the Department with a notice stating the date the beds or services are placed in operation and such notice shall be submitted to the Department consistent with applicable statute and promulgated rules.

(viii) The applicant, to assure appropriate utilization by all segments of the Michigan population, shall:

(A) not deny acute inpatient mental health services to any individual based on ability to pay, source of payment, age, race, handicap, national origin, religion, gender, sexual orientation or commitment status;

(B) provide acute inpatient mental health services to any individual based on clinical indications of need for the services;

(C) maintain information by payor and non-paying sources to indicate the volume of care from each source provided annually.

Compliance with selective contracting requirements shall not be construed as a violation of this term.

(ix) An applicant required to enter into a contract with a CMH(s) or the Department pursuant to these standards shall have in place, at the time the approved beds or services become operational, a signed contract to serve the public patient. The contract must address a single entry and exit system including discharge planning for each public patient. The contract shall specify that at least 50% or 80% of the approved beds, as required by the applicable sections of these standards, shall be allocated to the public patient, and shall specify the hospital's or unit's willingness to admit patients with an involuntary commitment status. The contract need not be funded.

(x) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years of operation and continue to participate annually thereafter.

(2) Compliance with Section 11 shall be determined by the Department based on a report submitted by the applicant and/or other information available to the Department.

(3) The agreements and assurances required by Section 11 shall be in the form of a certification authorized by the governing body of the applicant or its authorized agent.

## **Section 12. Project delivery requirements - additional terms of approval for child/adolescent specialized psychiatric programs**

Sec. 12. (1) In addition to the provisions of Section 11, an applicant for a child/adolescent specialized psychiatric program shall agree to operate the program in compliance with the following terms of CON approval, as applicable:

(a) There shall be at least the following child and adolescent mental health professionals employed, either directly or by contract, by the hospital or unit, each of whom must have been involved in the delivery of child/adolescent mental health services for at least 2 years within the most recent 5 years:

- (i) a child/adolescent psychiatrist;
- (ii) a child psychologist;
- (iii) a psychiatric nurse;
- (iv) a psychiatric social worker;
- (v) an occupational therapist or recreational therapist; and
- (vi) a special education teacher (certified with emotionally impaired).

(b) There shall be a recipient rights officer employed by the hospital or the program.

(c) The applicant shall identify a staff member(s) whose assigned responsibilities include discharge planning and liaison activities with the home school district(s).

(d) There shall be the following minimum staff employed either on a full time basis or on a consulting basis:

- (i) a pediatrician;
- (ii) a child neurologist;
- (iii) a neuropsychologist;
- (iv) a speech and language therapist;
- (v) an audiologist; and
- (vi) a dietician.

(e) A child/adolescent specialized psychiatric program shall have the capability to determine that each inpatient admission is the appropriate treatment alternative consistent with Section 498e of the Mental Health Code, being Section 330.1498e of the Michigan Compiled Laws.

(f) The child/adolescent specialized psychiatric program shall develop and maintain a coordinated relationship with the home school district of any patient to ensure that all public education requirements are met.

(g) The applicant shall demonstrate that the child/adolescent specialized psychiatric program is integrated within the continuum of mental health services available in its planning area by establishing a formal agreement with the CMH(s) serving the planning area in which the child/adolescent specialized psychiatric program is located. The agreement shall address admission and discharge planning issues which include, at a minimum, specific procedures for referrals for appropriate community services and for the exchange of information with the CMH(s), the probate court(s), the home school district, the Michigan Department of Human Services, the parent(s) or legal guardian(s) and/or the patient's attending physician.

(2) Compliance with Section 12 shall be determined by the Department based on a report submitted by the program and/or other information available to the Department.

(3) The agreements and assurances required by Section 12 shall be in the form of a certification authorized by the governing body of the applicant or its authorized agent.

## **Section 13. Department inventory of beds**

Sec. 13. The Department shall maintain, and provide on request, a listing of the Department Inventory of Beds for each adult and child/adolescent planning area.

## Section 14. Planning areas

Sec. 14. (1) The planning areas for child/adolescent inpatient psychiatric beds are the geographic boundaries of the groups of counties as follows.

### **Child/Adolescent Planning Areas**

	<b><u>Counties</u></b>
1	Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, Wayne
2	Clinton, Eaton, Hillsdale, Ingham, Jackson, Lenawee
3	Barry, Berrien, Branch, Calhoun, Cass, Kalamazoo, St. Joseph, Van Buren
4	Allegan, Ionia, Kent, Lake, Mason, Montcalm, Muskegon, Newaygo, Oceana, Ottawa
5	Genesee, Lapeer, Shiawassee
6	Arenac, Bay, Clare, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Mecosta, Ogemaw, Osceola, Oscoda, Saginaw, Sanilac, Tuscola
7	Alcona, Alpena, Antrim, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Leelanau, Manistee, Missaukee, Montmorency, Otsego, Presque Isle, Roscommon, Wexford
8	Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, Schoolcraft

(2) The planning areas for adult inpatient psychiatric beds are the geographic boundaries of the groups of counties as follows.

### **Adult Planning Areas**

	<b><u>Counties</u></b>
Detroit/Wayne	Wayne
Livingston	Livingston
Macomb	Macomb
Monroe	Monroe
Oakland	Oakland
St. Clair	St. Clair
Washtenaw	Washtenaw
Clinton-Eaton-Ingham	Clinton, Eaton, Ingham
Jackson-Hillsdale	Jackson, Hillsdale
Lenawee	Lenawee
Barry	Barry
Berrien	Berrien
Branch	Branch
Calhoun	Calhoun
Cass	Cass
Kalamazoo	Kalamazoo
St. Joseph	St. Joseph
Van Buren	Van Buren

CON Review Standards for Psychiatric Beds and Services  
APPROVED 6/22/05  
EFFECTIVE 10/17/05

CON-205  
10/17/05  
Page 12 of 19

**Adult Planning Areas**

Allegan  
 Ionia  
 West Michigan - Kent  
 West Michigan  
 Montcalm  
 Muskegon  
 Newaygo  
 Ottawa

Genesee  
 Lapeer  
 Shiawassee

AuSable Valley  
 Bay-Arenac  
 Central Michigan  
 Gratiot  
 Huron  
 Saginaw  
 Sanilac  
 Tuscola

North Country  
 Northern Lakes  
 Manistee-Benzie  
 Northeast Michigan

Pathways  
 Copper Country  
 Northpointe  
 Gogebic  
 Hiawatha

**Counties**

Allegan  
 Ionia  
 Kent  
 Lake, Mason, Oceana  
 Montcalm  
 Muskegon  
 Newaygo  
 Ottawa

Genesee  
 Lapeer  
 Shiawassee

Iosco, Ogemaw, Oscoda  
 Arenac, Bay  
 Clare, Gladwin, Isabella, Mecosta, Midland, Osceola  
 Gratiot  
 Saginaw  
 Sanilac  
 Tuscola

Huron

Antrim, Charlevoix, Cheboygan, Emmet, Kalkaska, Otsego  
 Crawford, Grand Traverse, Leelanau, Missaukee, Roscommon, Wexford  
 Benzie, Manistee  
 Alcona, Alpena, Montmorency, Presque Isle

Alger, Delta, Luce, Marquette  
 Baraga, Houghton, Keweenaw, Ontonagon  
 Dickinson, Iron, Menominee  
 Gogebic  
 Chippewa, Mackinac, Schoolcraft

**Section 15. Effect on prior CON review standards; comparative reviews**

Sec. 15. (1) These CON review standards supercede and replace the CON Review Standards for Psychiatric Beds and Services, approved by the CON Commission on March 8, 2005 and effective on May 27, 2005.

(2) Projects involving replacement beds reviewed under these standards shall not be subject to comparative review.

(3) Projects reviewed under these standards involving either: (a) an increase in the number of licensed psychiatric beds, or (b) an increase in the number of beds (whether new, additional, replacement or converted) for a specialized psychiatric program for children/adolescents shall be subject to comparative review.

**APPENDIX A**

**CON REVIEW STANDARDS  
FOR CHILD/ADOLESCENT PSYCHIATRIC BEDS**

The bed need numbers, for purposes of these standards until otherwise changed by the Commission, are as follows:

<b>Planning Area</b>	<b>Bed Need</b>
1	82
2	23
3	14
4	25
5	11
6	14
7	7
8	5
<b>TOTAL</b>	181

**APPENDIX B****CON REVIEW STANDARDS  
FOR ADULT PSYCHIATRIC BEDS**

The bed need numbers, for purposes of these standards until otherwise changed by the Commission, are as follows:

<b>Planning Area</b>	<b>Bed Need</b>
Detroit-Wayne	420
Livingston	37
Macomb	179
Monroe	22
Oakland	261
St. Clair	24
Washtenaw	76
Clinton-Eaton-Ingham	100
Jackson-Hillsdale	41
Lenawee	22
Barry	13
Berrien	27
Branch	11
Calhoun	30
Cass	12
Kalamazoo	41
St. Joseph	14
Van Buren	16
Allegan	10
Ionia	14
West Michigan - Kent	123
West Michigan (Lake, Mason, Oceana)	15
Montcalm	14
Muskegon	28
Newaygo	11
Ottawa	13
Genesee	93
Lapeer	20
Shiawassee	16

**APPENDIX B - continued**

Planning Area	Bed Need
Ausable Valley (Iosco, Ogemaw, Oscoda)	14
Bay-Arenac	28
Central Michigan (Clare, Gladwin, Isabella, Mecosta, Midland, Osceola)	40
Gratiot	10
Huron	8
Saginaw	28
Sanilac	10
Tuscola	13
North Country (Antrim, Charlevoix, Cheboygan, Emmet, Kalkaska, Otsego)	15
Northern Lakes (Crawford, Grand Traverse, Leelanau, Missaukee, Roscommon, Wexford)	15
Manistee-Benzie	10
Northeast Michigan (Alcona, Alpena, Montmorency, Presque Isle)	16
Pathways (Alger, Delta, Luce, Marquette)	28
Copper Country (Baraga, Houghton, Keweenaw, Ontonagon)	13
Northpointe (Dickinson, Iron, Menominee)	15
Gogebic	5
Hiawatha (Chippewa, Mackinac, Schoolcraft)	14
<b>TOTAL</b>	<b>1985</b>

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**APPENDIX C****RATIO OF ADULT INPATIENT PSYCHIATRIC  
BEDS PER 10,000 ADULT POPULATION**

<b>Adult Planning Area</b>	<b>Adult Beds per 10,000 Adult Population</b>
Detroit/Wayne	3.5229
Livingston	-0-
Macomb	3.1345
Monroe	1.8657
Oakland	4.1120
St. Clair	1.8192
Washtenaw	3.2809
Clinton-Eaton-Ingham	3.8835
Jackson-Hillsdale	2.5359
Lenawee	4.5961
Barry	-0-
Berrien	2.1298
Branch	4.5248
Calhoun	5.3946
Cass	-0-
Kalamazoo	2.1639
St. Joseph	-0-
Van Buren	2.6127
Allegan	1.1147
Ionia	-0-
West Michigan - Kent	3.6049
West Michigan (Lake, Mason, Oceana)	2.6730
Montcalm	3.4171
Muskegon	2.1211
Newaygo	4.4659
Ottawa	.6605
Genesee	3.3307
Lapeer	2.4962
Shiawassee	2.9550

**APPENDIX C - continued**

<b>Adult Planning Area</b>	<b>Adult Beds per 10,000 Adult Population</b>
Ausable Valley (Iosco, Ogemaw, Oscoda)	-0-
Bay-Arenac	2.8763
Central Michigan (Clare, Gladwin, Isabella, Mecosta, Midland, Osceola)	1.8484
Gratiot	3.6413
Huron	-0-
Saginaw	1.7369
Sanilac	-0-
Tuscola	-0-
North Country (Antrim, Charlevoix, Cheboygan, Emmet, Kalkaska, Otsego)	1.995
Northern Lakes (Crawford, Grand Traverse, Leelanau, Missaukee, Roscommon, Wexford)	.9474
Manistee-Benzie	-0-
Northeast Michigan (Alcona, Alpena, Montmorency, Presque Isle)	2.7948
Pathways (Alger, Delta, Luce, Marquette)	3.8769
Copper Country (Baraga, Houghton, Keweenaw, Ontagon)	-0-
Northpointe (Dickinson, Iron, Menominee)	-0-
Gogebic	-0-
Hiawatha (Chippewa, Mackinac, Schoolcraft)	-0-
State	2.8697

**APPENDIX D**

**CON REVIEW STANDARDS**  
**FOR CHILD/ADOLESCENT INPATIENT PSYCHIATRIC BEDS**

The use rate per 1000 population age 0-17, for purposes of these standards, until otherwise changed by the Commission, is 17.85.